

## **EXHIBIT 1**

### **INTRODUCTION**

Respondent, Home Depot USA, Inc., is a Georgia-based corporation that operates more than 990 home improvement stores in North and South America. In 2000, Respondent made \$22,000 in contributions to California political committees, and thereby qualified as a “major donor committee” under the Political Reform Act (the “Act”),<sup>1</sup> and was required to file semi-annual campaign statements, commonly known as “major donor statements” disclosing its contributions. Respondent failed to file a major donor statement disclosing contributions totaling \$10,000 during the reporting period that ended June 30, 2000, and failed to file another major donor statement disclosing contributions totaling \$12,000 during the reporting period that ended December 31, 2000, thereby committing two violations of the Act.

For the purposes of this Stipulation, Respondent’s violations of the Political Reform Act are stated as follows:

COUNT 1: After qualifying as a committee under section 82013, subdivision (c), Home Depot USA, Inc. failed to file a semi-annual campaign statement by July 31, 2000, in violation of section 84200, subdivision (b) of the Government Code.

COUNT 2: After qualifying as a committee under section 82013, subdivision (c), Home Depot USA, Inc. failed to file a semi-annual campaign statement by December 31, 2000, in violation of section 84200, subdivision (b) of the Government Code.

### **SUMMARY OF THE LAW**

An express purpose of the Act, as set forth in section 81002, subdivision (a), is to assure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters will be better informed, and so that improper practices will be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure.

One feature of the system, found at section 84200, subdivision (b) of the Act, is that all persons who qualify as a “major donor committee” as defined in section 82013, subdivision (c), are required to file campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31, if they have made contributions or independent

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<sup>1</sup> The Political Reform Act (“Act”) is contained in sections 81000 through 91014 of the Government Code. All statutory references are to the Government Code unless otherwise indicated. The regulations of the Fair Political Practices Commission, enacted pursuant to the provisions of the Act, are contained in sections 18000, *et seq.*, of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

expenditures, including payments to a slate mailer organization, during the six-month period before the closing date of the statement. Section 82013, subdivision (c) defines a major donor committee as any person or combination of persons who, directly or indirectly, makes contributions totaling \$10,000 or more in a calendar year to, or at the behest of, candidates or committees.

### **SUMMARY OF THE FACTS**

**Count 1:**      Failure to file a semi-annual major donor statement, in violation of section 84200, subdivision (b).

On February 17, 2000, Respondent Home Depot USA, Inc. contributed \$10,000 to the Californians for Clean, Safe, Reliable Water, Yes on Proposition 13 Committee. Respondent therefore qualified as a major donor committee under section 82013, subdivision (c) of the Act, and became obligated to file a semi-annual major donor statement by July 31, 2000, disclosing this contribution.

On July 5, 2000, the Technical Assistance Division of the Fair Political Practices Commission sent a letter to Respondent providing notification that it apparently qualified as a major donor committee, by virtue of its contribution to the Californians for Clean, Safe, Reliable Water, Yes on Proposition 13 Committee, and therefore was required to file a semi-annual major donor statement by July 31, 2000. Despite this notification, Respondent did not file the statement by the July 31, 2000 deadline, thereby violating section 84200, subdivision (b).

On October 6, 2000, and on November 22, 2000, Investigator Jon Wroten, of the Enforcement Division of the Fair Political Practices Commission, sent letters to Respondent advising Respondent that its failure to file a semi-annual major donor statement by July 31, 2000, constituted a violation of the Act, and urging Respondent to file the overdue statement immediately. Respondent did not respond to these letters.

On May 1, 2001, Enforcement Division Investigator Jon Wroten spoke by telephone with Joanne Chesler, an employee of Respondent's Governmental Relations section. Investigator Wroten advised Ms. Chesler that Respondent was required to file semi-annual major donor statements disclosing its campaign contributions in 2000. Ms. Chesler stated that Respondent retains a firm to handle the reporting of contributions, and that she would have someone from that firm call Investigator Wroten. When he did not receive such a call within a week, Investigator Wroten called Ms. Chesler again on May 8, 2001. This time, investigator Wroten's call was transferred to Beth Foughner, another employee of Respondent's Governmental Relations section. Ms. Foughner promised that she would make sure the reports were filed.

On May 17, 2001, Respondent filed the overdue semi-annual major donor statement.

**Count 2:**     Failure to file a semi-annual major donor statement, in violation of section 84200, subdivision (b).

Between July 26, 2000 and October 19, 2000, Respondent Home Depot USA, Inc. made the following contributions:

| <u>Date</u>      | <u>Recipient</u>   | <u>Amount</u> |
|------------------|--|---------------|
| July 26, 2000    | California Business Properties<br>Association PAC        | \$2,000       |
| August 1, 2000   | Governor Gray Davis Committee                            | \$5,000       |
| October 19, 2000 | California Retail Association Good<br>Government Council | \$5,000       |

As Respondent qualified as a major donor committee under section 82013, subdivision (c), by making contributions totaling \$10,000 or more in a calendar year, Respondent was required to file a semi-annual major donor statement by January 31, 2001, reporting these contributions. Respondent did not file the statement by the January 31, 2000 deadline, thereby violating section 84200, subdivision (b).

When Respondent filed the overdue semi-annual major donor statement outlined in count one, Respondent also disclosed the contributions made during the second semi-annual period for 2001. Prior to Respondent's disclosure, the contributions, and thus the violation, was unknown to the Commission.

## **CONCLUSION**

Counsel for Respondent stated that the failure to file major donor statements resulted from the Governmental Relations Section of Home Depot USA, Inc. not being aware that the contribution had been made by Home Depot USA, Inc. As a corrective measure, Respondent has adopted a policy that the Governmental Relations Section must be informed of all corporate contributions by Home Depot USA, Inc. This policy will ensure that all corporate contributions are properly tracked and reported.

In response to why Respondent did not file the delinquent statements upon receiving the letters sent by the Technical Assistance and the Enforcement Division, Counsel for Respondent stated that the letters were misdirected within the company, and were not brought to the attention of the proper persons within Home Depot USA, Inc. until after Mr. Wroten's telephone call.

This matter consists of two counts of violating section 84200, subdivision (b) of the Act, which carry a maximum administrative penalty of seven thousand dollars (\$7,000).<sup>2</sup> However, regarding count one, under the expedited Major Donor Program adopted by the Commission in December of 2000, the usual administrative penalty for a major donor committee that: (1) fails to timely file a semi-annual major donor statement; (2) is sent two letters by Commission staff asking that the committee comply with its major donor filing obligations, and (3) does not comply with its filing obligations until some subsequent action is taken by the Commission; is fifteen percent of the amount contributed by the Respondent, up to the statutory maximum administrative penalty per violation. As the total contributions for this count were \$10,000, the scheduled penalty for this count is therefore \$1,500.

Regarding count two, because Respondent disclosed the contributions for the period ending December 31, 2000, without being contacted about these contributions by Commission staff, there is no scheduled penalty for this count. Nonetheless, one may still compare this count to other violations that fall within the schedule of penalties for the Major Donor Program. As Respondent disclosed these contributions without multiple prompting by Commission staff, this count is somewhat analogous to the Program's least aggravated case, which carries a standard penalty of \$400. However, because Respondent did not disclose the contributions covered in count one, a somewhat higher penalty of \$500 appears appropriate.

Imposition of a total agreed upon penalty for both counts of two thousand dollars (\$2,000) is therefore justified.

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<sup>2</sup> As a result of the passage of Proposition 34 in the November 7, 2000 general election, the maximum administrative penalty for a violation of the Act was increased from two thousand dollars (\$2,000) to five thousand dollars for violations occurring after January 1, 2001. As such, the maximum administrative penalty for count one is two thousand dollars (\$2,000) and the maximum administrative penalty for count two is five thousand dollars (\$5,000).